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CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

2014 JUN 20 PM 4:04

DEPUTY CLERK *J*

UNITED STATES OF AMERICA, *et al.*, *ex*
rel., TRACY GARSTKA, *et al.*,

Plaintiffs,

v.

MEDTRONIC, INC., d/b/a MEDTRONIC
DIABETES, *et. al.*,

Defendants.

Civil Action No. 3:11-CV-0486-P

FILED IN SEALED CASE

UNITED STATES OF AMERICA'S MOTION TO UNSEAL

As contemplated by the Court's Order Granting Stipulated Partial Dismissal of Civil Action entered September 27, 2013 [ECF doc.# 29], the United States of America (United States) respectfully petitions this Court for an order unsealing only the following documents in this case: (1) the Amended Complaint [doc. #17]; (2) the Notice of Partial Intervention for Settlement Purposes [doc. #27]; (3) the Joint Stipulation of Partial Dismissal of Civil Action [doc. #28] and accompanying Order [doc.#29]; (4) the Stipulation of Dismissal of State Supplemental Claims [doc. #33]; and (5) this Motion to Unseal and any accompanying Order. The United States also requests that all pleadings filed in this case from this point forward remain unsealed. In support of its requests, the United States would show the Court as follows:

1. Relators filed this *qui tam* action on March 8, 2011, against Medtronic, Inc. d/b/a Medtronic Diabetes and Medtronic Minimed, Inc. d/b/a Medtronic Diabetes, Inc. (collectively "Medtronic"), on behalf of the United States, the District of Columbia, and

the states of California, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Rhode Island, Tennessee, Texas, Virginia, and Wisconsin (Plaintiff-States). Relators alleged that Medtronic, manufacturers and suppliers of insulin pumps, submitted or caused the submission of false claims to Medicare, Tricare, and Medicaid for replacement insulin pumps that were not medically necessary or should have been covered under warranty.

2. On September 7, 2011, the United States filed a Joint Stipulation of Partial Dismissal of Civil Action [doc. #28] indicating that the government and Medtronic had reached a settlement agreement and requesting that the government's claims (as defined in the settlement agreement) be dismissed. The United States also requested the case remain under seal and that the Court retain jurisdiction as to the remaining Plaintiff-States' and Relators' claims. On September 27, 2013, an order was entered dismissing the government's claims and providing that, upon final resolution of the Plaintiff-States' anticipated settlement with Medtronic, the seal in this case be lifted as to the amended complaint, the notice of partial intervention, any stipulated dismissals, and accompanying Orders, only. [Doc. #29]

3. On January 6, 2014, the Plaintiff-States filed a Stipulation of Dismissal of State Supplemental Claims [doc. #33] indicating the remaining parties had reached a settlement and stipulated to dismissing the supplemental state law claims asserted in this case.

4. The United States requests that (1) the Amended Complaint [doc. #17], (2) the Notice of Partial Intervention for Settlement Purposes [doc. #27], (3) the Joint Stipulation of Partial Dismissal of Civil Action [doc. #28] and accompanying Order [doc. #29], (4) the Stipulation of Dismissal of State Supplemental Claims [doc. #33], and (5) this Motion to Unseal and any accompanying Order be unsealed, and that all pleadings filed in this case from this point forward remain unsealed.

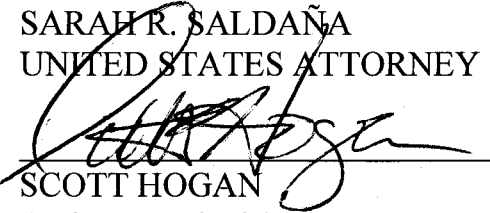
5. The United States contacted Relators' counsel as well as counsel for the Plaintiff-States regarding this motion and they concur with the relief sought.

6. A proposed order accompanies this Motion.

Respectfully submitted,

STUART F. DELERY
ASSISTANT ATTORNEY GENERAL

SARAH R. SALDAÑA
UNITED STATES ATTORNEY

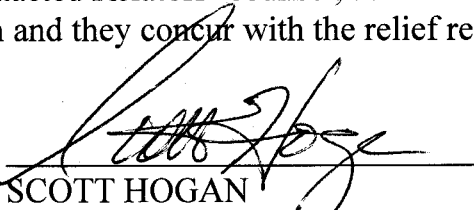

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Commercial Litigation Branch

Attorneys for the United States of America

CERTIFICATE OF CONFERENCE

I hereby certify that my office contacted Relators' counsel, as well as counsel for the Plaintiff-States, regarding this motion and they concur with the relief requested therein.

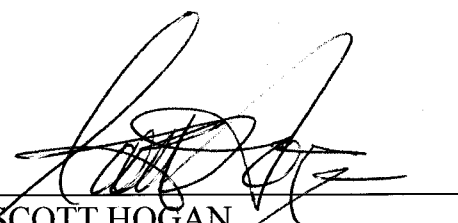

SCOTT HOGAN
Assistant United States Attorney

CERTIFICATE OF SERVICE

On June 20, 2014, I filed the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas. I hereby certify that a copy of the foregoing notice was mailed, first-class mail, to:

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Mark Coffee
Assistant Attorney General
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SCOTT HOGAN
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